

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

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KEITH JONES, individually and on )  
Behalf of all similarly situated individuals, )  
Plaintiffs, )  
v. ) Case No: 5:11-CV-00398 (HL)  
TUCKER COMMUNICATIONS, INC., )  
Defendant. )

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AFFIDAVIT OF MICHAEL DYER  
CERTIFIED PURSUANT TO 28 U.S.C. § 1746

Michael Dyer certifies under penalties of perjury that the following is true and correct:

1. I, Michael Dyer, am employed as the President and Chief Executive Officer of the Greater Macon Chamber of Commerce. I have held that position for about six months. Prior to that, I was Vice President and General Manager of Cox Communications in Macon, Georgia. I worked for Cox Communications for over thirteen years. Through my personal experience, I have personal knowledge as to the different types of cable installation services in the industry and the nature of the jobs performed by cable installation technicians, including the cable installation services provided by the cable installation technicians of Tucker Communications, Inc. ("Tucker").

2. The cable installation technicians employed by Tucker to install and service cable television, telephone, and broadband internet packages for customers of cable service providers such as Charter Communications are employed in an enterprise that is recognized as "retail" in the industry. That is because Tucker sells services to the general public that serve the everyday

need of the community. Cable installation service businesses perform a function in the business organization of our nation which is at the very end of the stream of distribution. They provide the general public with repair services and other services for the comfort and convenience of that public as it lives out its daily existence.

3. An example of a cable installation company's services that are not regarded as "retail" would include laying or stringing cable to access a new housing development or an area previously not served by cable. Another example would be mapping, drafting and design services for new builds, overbuilds or upgrades. Such services are for the direct benefit of the cable company, rather than for the comfort and convenience of the end user, the individual consumer.

4. Sales and services that are recognized as "retail" in the industry include the sale of cable installation services and equipment to individual consumers and the installation services performed by technicians by delivering, installing or servicing the equipment purchased or leased by the customer and activating or maintaining the customer's connection to the cable company's cable service.

5. Cable technicians who perform these retail services also have the opportunity to make additional retail sales of equipment and services. For example, a technician dispatched to a customer's home to install and activate a cable package purchased by the customer may suggest that the customer purchase upgraded equipment (*i.e.*, HD connection or a DVR receiver) or additional outlets not included in the package. For these reasons, companies hiring cable technicians to fulfill retail sales of cable packages look for employees who have not only the technical skills to successfully install or service a cable connection, but also the customer relations skills necessary for successful point-of-purchase retail transactions.

**CERTIFICATION OF MICHAEL DYER PURSUANT TO 28 U.S.C. § 1746**

I, Michael Dyer, state as follows:

I certify under penalties of perjury that the facts set forth above are true and accurate, based on my personal knowledge.

DATED at 11:00 AM, this 5<sup>th</sup> day of September, 2012.

  
Michael Dyer